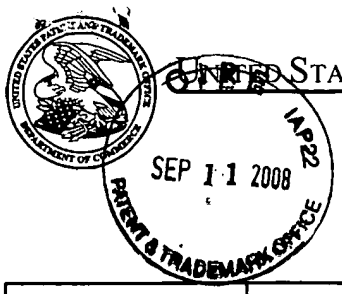

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,049	04/08/2004	Dustin Kirkland	AUS920031008US1	9648

7590 09/02/2008

Darcell Walker
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EXAMINER	
ZUBAJLO, JENNIFER L	
ART UNIT	**PAPER NUMBER**
2629	

MAIL DATE	DELIVERY MODE
09/02/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/821,049	KIRKLAND ET AL.	
	Examiner	Art Unit	
	JENNIFER ZUBAJLO	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,7,9-13,15,17-21,23 and 24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,7,9-13,15,17-21,23 and 24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 April 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-24 are objected to because of the following informalities: multiple sentence structure and punctuation mistakes. For example in claim 1: "displaying the *adjusted section of the in the adjusted display size*", doesn't make sense the way it is worded. Other examples include: claim 15 "instructions for prompting a user to determine whether the user desires to select *one or more specific display section for adjustments*; and identifying one or more *display sections selected section by user* for adjustment", and claim 19 "based on movement of a user outside a predetermined user area and the amount of time the user remains out of the predetermined user area a distance approximation device for determining the location of a user from said display device, when *the determination is that a determined user movement* is valid; software *for determining the whether the determined distance*.....". These are just some examples. All claims have at least a punctuation, grammar, and/or sentence structure/wording problem. Appropriate correction is required.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-13, 15, 17, and 18 fails to fall within a statutory category of invention (Machine, Manufacture, and Composition of Matter). The claims are not directed to a process within the meaning of 101, since it's not a series of steps or acts being performed, but instead a program which executed cause a series of process steps or acts to occur.

On page 11, last paragraph of the specification, Applicant has provided antecedent basis for the claim terminology "computer readable medium..... includes: transmission type medium, such as digital and analog communications links". The medium in the context of this disclosure can cover signals and carrier waves which are not a manufacture within the meaning of 101. Therefore, it's statutory under 35 USC 101.

For examination purpose, Examiner examines claims 11-13, 15, 17, and 18 to not include a computer readable medium that is a transmission type medium, such as digital and analog communications links.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-3, 7, 9-13, 15, 17-21, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beom-Seok Lee (Pub. No.: US 2003/0234799 A1) in view of

Gregory T. Janky (Patent No: US 7,050,907 B1), further in view of Michael Joseph Dunn (Patent No.: US 6,890,077 B2).

As to claims 1 and 11, Lee teaches, a method and system for adjusting a screen display based on a user's distance from the display device (see Abstract, figures 1 and 2, and [0015]) comprising: establishing a relationship between the distance of a user from a display screen and the size of the display on the screen (see Abstract, figures 1 and 2, and [0015]); detecting the movement of the user with respect to the display screen (see Abstract, figures 1 and 2, and [0015]); adjusting the size of the screen display based on the location of the user with respect to the display screen and displaying the adjusted size (see figures 5 and 6, [0038] and [0042]).

Lee does not directly teach establishing a valid movement based on movement of a user outside a predetermined user area and the amount of time the user remains out of the predetermined user area; determining whether the display has multiple sections; determining whether a user desires to have section adjustments; when the user does desire to have section adjustments, identifying a section selected by user for adjustment; determining whether said detected user movement is valid movement, wherein a valid movement occurs when the detected user movement is outside a predetermined user area for a predetermined amount of time; or display section adjustments.

Janky teaches establishing a valid movement based on movement of a user outside a predetermined user area and the amount of time the user remains out of the

predetermined user area (see column 13 lines 16-24); determining whether said detected user movement is valid movement, wherein a valid movement occurs when the detected user movement is outside a predetermined user area for a predetermined amount of time (see column 13 lines 16-24- note that these parameters can be user defined so the user can predetermine what would be a valid movement).

Dunn teaches determining whether the display has multiple sections (see Abstract – note that there are multiple sections shown and it is inherent for the processor to determine the number of sections even if it is automatically 2 sections); determining whether a user desires to have section adjustments (see Abstract – note that a user moves his or her eyes in order to make adjustments to the display sections, therefore, if the user looks at a specific section, the user is making a choice to adjust that section, if the user doesn't look at a section or does not wear the headpiece, then user is choosing to not select a section for adjustment); when the user does desire to have section adjustments, identifying a section selected by user for adjustment and adjusting this section on the display screen (see Abstract – note that the user identifies the section for adjustment by moving his or her eyes over the area he or she wishes to adjust).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the validity of the movements detected by a motion detector taught by Janky and the sectional display with section adjustments taught by Dunn into the method and system for adjusting a screen display based on a user's distance from the display device taught by Lee in order to provide a device which can

trigger another electrical device (a display) to perform a particular task (section adjustment) upon entering or leaving a designated location zone (see Janky - column 2 lines 22-24).

As to claim 19, Lee teaches a system for adjusting a screen display based on a user's distance from the display device comprising: a display device (see abstract, figures 1 and 2, and [0015]); a device for determining user movement (see abstract, figure 1 and 2); a distance approximation device for determining the location of the user from said display device (see abstract, figures 1 and 2, and [0015]); software for determining whether the determined distance of a user from the display device is beyond an established threshold distance (see [0030] and [0044]); and software for adjusting the size of the display on the display device based on the determined distance of the user from the display device, said adjusting software further comprising routines to adjust one or more sections of the display (see [0030] and [0044]).

Lee does not directly teach a device for determining the validity of any determined movement, based on movement of a user outside a predetermined user area and the amount of time the user remains out of the predetermined user area; a distance approximation device for determining the location of the user from said display device, *when the determination is that a determined user movement is valid*; or said adjusting software further comprising routines to adjust one or more sections of the display *as selected by a user.*

Janky teaches determining the validity of any determined movement, based on movement of a user outside a predetermined user area and the amount of time the user remains out of the predetermined user area (see column 7 lines 8-12 and column 13 lines 16-24) and a distance approximation device for determining the location of the user from said display device, when the determination is that a determined user movement is valid (see column 13 lines 16-24- note that these parameters can be user defined so the user can predetermine what would be a valid movement).

Dunn teaches adjusting one or more sections of the display as selected by a user (see Abstract – note that the user identifies the section for adjustment by moving his or her eyes over the area he or she wishes to adjust).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the validity of the movements detected by a motion detector taught by Janky and the sectional display with section adjustments taught by Dunn into the method and system for adjusting a screen display based on a user's distance from the display device taught by Lee in order to provide a device which can trigger another electrical device (a display) to perform a particular task (section adjustment) upon entering or leaving a designated location zone (see Janky - column 2 lines 22-24).

As to claims 2 and 12 (dependent on claim 1 and 11 respectively), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claims 1 and 11. Janky further teaches establishing a threshold distance of

the user from the display screen as an outer boundary of the predetermined user area (see column 2 lines 22-39, column 10 lines 5-12 and column 13 lines 16-24).

As to claims 3 and 13 (dependent on claim 2 and 12 respectively), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claims 1, 2, 11, and 12. Janky further teaches determining whether detected movement of the user is beyond the established threshold distance before adjusting the size (see column 2 lines 22-39, column 10 lines 5-12 and column 13 lines 16-24 – note that adjusting the size is not directly taught by Janky but is an obvious example of the sort of command that could be generated when user/device is out of predefined area/zone).

As to claim 7 (dependent on claim 2), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claims 1 and 2. Janky further teaches the threshold distance comprises multiple threshold ranges (see column 2 lines 22-39, column 7 lines 6-11, column 10 lines 5-12 and column 13 lines 16-24 – note that this area can be user defined and can cover any areas/ranges desired by the user).

As to claims 9 and 10 (dependent on claims 1 and 9 respectively), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claim 1. Janky further teaches determining whether said detected user

movement is a valid movement, determining the amount of time a user is out of the local area, and establishing a minimum time the user has to be out of the local area to trigger a movement beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 18-24).

As to claim 15, the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claims 1, 2, 11, 12, and 19. Dunn further teaches determining whether display has multiple sections (see Abstract – note that there are multiple sections shown and it is inherent for the processor to determine the number of sections even if it is automatically 2 sections); and when display does have multiple sections, instructions for prompting a user to determine whether the user desires to select one or more specific display section for adjustments (see Abstract – note that in this example - user selects section to be adjusted my moving eyes to that section, if user only focuses eyes on one section, then only that section is adjusted); and identifying one or more display sections selected by user for adjustment (see Abstract – note user adjusts display with eye movements).

As to claims 17 and 18 (dependent on claims 12 and 17 respectively), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claims 11 and 12. Janky further teaches determining whether said detected user movement is a valid movement, determining the amount of time a user is out of the local area, and establishing a minimum time the user has to be out of the local area to

trigger a movement beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 18-24 – note that these limitations can be user defined).

As to claim 20 (dependent on claim 19), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claim 19. Lee further teaches the distance approximation device as part of the display device (see figure1, [0029] and [0041]).

As to claim 21 (dependent on claim 19), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claim 19. As interpreted broadly Lee also teaches the distance approximation device positioned immediately adjacent the display device (figure 1, [0029], and [0041]). The location of the sensor is not taught directly but is simply an engineering choice of design as long as it is somewhere close to display device.

As to claim 23 (dependent on claim 2), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claim 2. Janky further teaches wherein the said valid movement determination step further comprises the steps of: determining whether user movement be the threshold distance; and determining the amount of time user is beyond the threshold distance (see column 7 lines 8-12 and column 13 lines 16-24).

As to claim 24 (dependent on claim 23), the combination of Lee, Janky, and Dunn teach the limitations as described in the above rejection of claim 23. Janky further teaches wherein said valid movement comprises user movement beyond the threshold distance for a predetermined amount of time (column 13 lines 16-24).

Note: References cited include just some examples that Examiner feels best explain the prior art rejection. However, the entire references teach the scope of the claims in more detail. Examiner recommends that Applicant read the full disclosures.

Response to Arguments

5. Applicant's arguments filed 4/28/08 have been fully considered but they are not persuasive.

Applicant has amended claim 11 to try to overcome previous 35 U.S.C 101 rejection, however by amending claim 11 to read that "*the computer program product is stored in a computer readable storage medium*" does not overcome the previous 101 rejection because a computer readable medium is defined in the specification as "a transmission type medium, such as digital and analog communications links", therefore the medium in the context of this claim can cover signals and carrier waves which are not a manufacture within the meaning of 101.

Applicant argues that "in Applicant's invention, the screen sections are not automatically on the screen" and "because the user has this option, it is necessary to determine whether a display has multiple sections". Even though Dunn has predefined

display sections, it still reads on claimed "determining whether display has multiple sections" because inherently the display would have to determine whether there are multiple sections in order to define the area for these sections and to properly adjust the display portions with movement of the users eye over each different section. Dunn teaches determining whether the display has multiple sections (see Abstract – note that there are multiple sections shown and it is inherent for the processor to determine the number of sections even if it is automatically 2 sections); determining whether a user desires to have section adjustments (see Abstract – note that a user moves his or her eyes in order to make adjustments to the display sections, therefore, if the user looks at a specific section, the user is making a choice to adjust that section, if the user doesn't look at a section or does not wear the headpiece, then user is choosing to not select a section for adjustment); when the user does desire to have section adjustments, identifying a section selected by user for adjustment and adjusting this section on the display screen (see Abstract – note that the user identifies the section for adjustment by moving his or her eyes over the area he or she wishes to adjust).

Applicant argues that there has to be some teaching suggestion or motivation to modify or combine the cited references. Applicant argues that the Examiner has failed to present a prima facie case of obviousness. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the teaching of valid movement associated with position/motion detection is the teaching taken from Janky and incorporated into the position/motion detection used for adjusting a display taught by Lee (see above rejection). Janky states that position reporting devices are frequently used to locate and report the position of a person or object (see column 1 lines 21-22) which is the motivation/suggestion to combine these references. The multiple display section adjustment taken from Janky and incorporated into the combination of Lee and Janky is taken only for the teaching of the multiple sections being adjusted separately and the motivation for this combination is because this is a display device with adjusted movement based on user movement and to make a more user friendly device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the validity of the movements detected by a motion detector taught by Janky and the sectional display with section adjustments taught by Dunn into the method and system for adjusting a screen display based on a user's distance from the display device taught by Lee in order to provide a device which can trigger another electrical device (a display) to perform a particular task (section adjustment) upon entering or leaving a designated location zone (see Janky - column 2 lines 22-24).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER ZUBAJLO whose telephone number is (571)270-1551. The examiner can normally be reached on Monday-Friday, 8 am - 5 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on (571) 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer Zubajlo/
8/26/08

/Amare Mengistu/

Supervisory Patent Examiner, Art Unit 2629

Notice of References Cited	Application/Control No. 10/821,049	Applicant(s)/Patent Under Reexamination KIRKLAND ET AL.	
	Examiner JENNIFER ZUBAJLO	Art Unit 2629	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2003/0234799	12-2003	Lee, Beom-Seok	345/660
*	B	US-7,050,907	05-2006	Janky et al.	701/213
*	C	US-6,890,077	05-2005	Dunn, Michael Joseph	351/224
	D	US-			
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	F	US-			
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FOREIGN PATENT DOCUMENTS

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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
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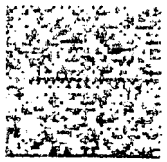

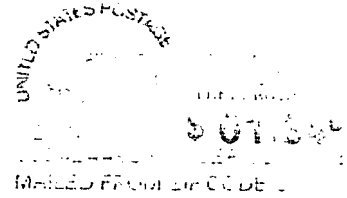

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